

EXHIBIT V

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

EMG TECHNOLOGY, INC.,)
)
)
Plaintiff,)
)
-vs-) CASE NO. 6:08CV-447-LED
)
)
APPLE, INC.,)
AMERICAN AIRLINES, INC.,)
BLOOMBERG, L.P.,)
CONTINENTAL AIRLINES, INC.,)
UNITED PARCEL SERVICE, INC.,)
)
)
Defendants.)
)

DEPOSITION OF SABIN HEAD, Ph.D.

DATE: September 9, 2009

TIME: 9:20 a.m.

LOCATION: MANATT, PHELPS & PHILLIPS, LLP
One Embarcadero Center
30th Floor
San Francisco, California

REPORTED BY: Anne M. Torreano, CSR, RPR, CCRR
Certified Shorthand Reporter
License Number C-10520

17:35:53 1 the timer.

17:35:54 2 MR. STEPHENS: Can we go off the record for a

17:35:55 3 minute?

17:35:56 4 THE VIDEOGRAPHER: Going off record at

17:35:58 5 5:35 p.m.

17:36:00 6 (DISCUSSION OFF THE RECORD.)

17:39:00 7 THE VIDEOGRAPHER: Going back on record at

17:39:02 8 5:38 p.m.

17:39:04 9 Please proceed.

17:39:07 10 BY MR. STEPHENS:

17:39:07 11 Q. Dr. Head, now that we have Safari working

17:39:09 12 this time without being set as -- to mimic the iPhone

17:39:15 13 browser, could you navigate to the malltv.com page with

17:39:18 14 that?

17:39:19 15 MR. BECKER: Object. Form.

17:39:41 16 MR. STEPHENS: It doesn't have Flash. All

17:39:42 17 right. Let's go off the record again.

17:39:44 18 THE VIDEOGRAPHER: Going off record at

17:39:45 19 5:39 p.m.

17:41:04 20 (DISCUSSION OFF THE RECORD.)

17:59:24 21 THE VIDEOGRAPHER: Going back on record at

17:59:32 22 5:59 p.m.

17:59:33 23 Please proceed.

17:59:34 24 MR. STEPHENS: Rob, I don't want to appear to

17:59:37 25 be too pedantic here, but I just want to make sure I'm

17:59:42 1 here clear on what you stipulated to about the MallTV
17:59:44 2 portal.

17:59:44 3 Was your stipulation that malltv.com does not
17:59:47 4 incorporate or reflect any of the certified claims?

17:59:49 5 MR. BECKER: No, it does not contain, to my
17:59:51 6 knowledge, all of the elements of any particular claim.

17:59:54 7 MR. STEPHENS: Okay. But that means it does
17:59:58 8 not incorporate or reflect all of the elements of any
18:00:00 9 particular claim; right?

18:00:02 10 MR. BECKER: The mock-up, not MallTV portal,
18:00:07 11 but the mock-up of it, does not contain, to my
18:00:10 12 knowledge, all of the elements of any claim.

18:00:12 13 MR. STEPHENS: And there's nothing that
18:00:14 14 physically exists in the world that incorporates or
18:00:17 15 reflects all of the elements of any asserted claim;
18:00:20 16 right?

18:00:20 17 MR. BECKER: And that I disagree with. I
18:00:22 18 think the patent description is something that
18:00:24 19 physically exists that contains all those elements.

18:00:27 20 MR. STEPHENS: Okay. But other than the
18:00:29 21 patent, there's nothing else; right?

18:00:31 22 MR. BECKER: Nothing that I'm aware of.

18:00:34 23 MR. STEPHENS: Okay. And EMG is not
18:00:35 24 contending that there is; right?

18:00:37 25 MR. BECKER: Yes, that's my -- you're right.

18:49:54 1 THE VIDEOGRAPHER: This ends today's
18:49:56 2 Deposition on September 9th, 2009. The total number of
18:49:58 3 tapes used was four.

18:49:59 4 We're now off the record at 6:49 p.m.
5 (The deposition of SABIN HEAD, Ph.D.
6 was adjourned at 6:49 p.m. this date.)

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I certify under penalty of perjury that the foregoing

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is true and correct.

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Date _____

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SABIN HEAD, Ph.D.

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1 REPORTER'S CERTIFICATE

2 The undersigned Certified Shorthand Reporter
3 licensed in the State of California does hereby
4 certify:

5 I am authorized to administer oaths or
6 affirmations pursuant to Code of Civil Procedure,
7 Section 2093(b), and prior to being examined, the
8 witness was duly administered an oath by me.

9 I am not a relative or employee or attorney or
10 counsel of any of the parties, nor am I a relative or
11 employee of such attorney or counsel, nor am I
12 financially interested in the outcome of this action.

13 I am the deposition officer who
14 stenographically recorded the testimony in the
15 foregoing deposition, and the foregoing transcript is a
16 true record of the testimony given by the witness.

17 Before completion of the deposition, review of
18 the transcript [x] was [] was not requested. If
19 requested, any changes made by the deponent (and
20 provided to the reporter) during the period allowed are
21 appended hereto.

22 In witness whereof, I have subscribed my name
23 this ____ day of _____, 2009.

24

25

ANNE M. TORREANO, CSR No. 10520